

## MEETING RECORD

**NAME OF GROUP:** COUNTY BOARD OF ZONING APPEALS

**DATE, TIME AND PLACE OF MEETING:** Friday, September 9, 2005, 2:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Lynette Nelson, Tom Thurber, Matthew Warner and Ed Woeppel; (Steve Hollman absent). Dale Stertz from Building and Safety; Mike Thew of the County Attorney's office; Brian Will and Teresa McKinstry of the Planning Dept. and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular County Board of Zoning Appeals Meeting

Nelson nominated Woeppel as Chair and Thurber as Vice-Chair, seconded by Warner. Motion carried 4-0: Nelson, Thurber, Warner and Woeppel voting 'yes'; Hollman absent.

Woeppel called for a motion approving the minutes of the regular meeting held August 13, 2004. Motion for approval made by Thurber, seconded by Nelson. Motion carried 4-0: Nelson, Thurber, Warner and Woeppel voting 'yes'; Hollman absent.

**COUNTY BOARD OF ZONING APPEALS NO. 05001**  
**REQUESTED BY BRIAN DURAN, TO REDUCE THE SIDE YARD SETBACK ON**  
**PROPERTY GENERALLY LOCATED AT S. 110<sup>TH</sup> ST. AND GAGE RD., ADDRESSED**  
**AS 29000 N. GOLDEN POND RD.**  
**PUBLIC HEARING:** September 9, 2005

Members present: Nelson, Thurber, Warner and Woeppel; Hollman absent.

Brian Will stated that staff received an email from the applicant asking for a one month deferral on this application. It was also noted for the record that staff received two letters in support from Larry Schweitzer and Greg and Ane Edwards.

Woeppel doesn't quite understand the relationship with Firth and Lancaster County on this application.

Dale Stertz explained that Building and Safety has an inter-local agreement with Lancaster County for building code enforcement for land that lies in the county jurisdiction. This

application falls just outside the one mile area of Firth. The developer in Firth's jurisdiction developed three lots of 20+ acres in the county's jurisdiction. At the time it was developed, lands of 20 acres or more was a farmstead with no building permits required. Since this was developed in 2002, the Lancaster County Board asked Building and Safety to enforce building permits on new buildings only. Firth believed this property was in their jurisdiction, but after the house was built it became evident it was in Lancaster County jurisdiction. Building and Safety wants to go back to the County Board to get some clear direction about what they want Building and Safety to enforce. Building and Safety has not been looking at side yards, as per direction from the County Board. This needs to be cleared up.

Nelson asked about the well. It seems to be outside the property line. Stertz replied that lots pins were used that they assumed were theirs. It was discovered that they were using the wrong lot pins. Building and Safety received a survey from a licensed surveyor. That appears to have been done in 2003. He does not know if the surveyor was involved when the house was built or not. Stertz pointed out there is a 20-acre parcel north of the property in question. He believes there are a number of pins on the road right-of-way and a pin was used that was north of the correct lot pin. Connected with the back lot pin, they thought they had enough side yard setback.

Woepfel wondered if there is potential for litigation on this application. He questioned if this Board should be making a ruling that could affect litigation if the well is on someone else's property. Stertz believes this is another question that staff needs to ask the County Board.

Mike Thew, Deputy County Attorney appeared. From what he has heard, his best advice is to defer this matter for one month. Given the statutory authority this Board has, direction from the County board would be in the best interest of everyone. We should obtain a hard copy of the building permit from the village of Firth. The question of pins is important. If this was something the developer or surveyor should have done, the property owner has some other recourse. Stertz raises a good point. If all of this occurred prior to the time the County Board was enforcing side yards, the applicant might be grandfathered in.

Woepfel questioned if there is a survey from whenever this was initially laid out. He would like to take a look at it. Stertz replied there is a subdivision filed on it. Thew believes that might answer the questions about how the lots were laid out.

Thew stated the well may require some action by the applicant that could eliminate the need for a variance. If the applicant has to buy enough land to get the well back on his property, the lot could be reconfigured. Nelson believes the staff report states the neighbor is not willing to participate in that option. Stertz believes the applicant has dug a new well on their property.

Stertz stated that two other lots are part of this subdivision. The houses on the other two lots were built prior to 2002. They were under the "no permits required". This house was built after

2002. The other two lots are also in the county jurisdiction. It was County Board direction to Building and Safety for "no permits required".

Nelson moved for one month deferral, seconded by Warner. Motion for deferral granted 4-0: Nelson, Thurber, Warner and Woeppel voting 'yes'; Hollman absent.

There being no further business, the meeting was adjourned at 2:55 p.m.